



# Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert R. Corbin

February 6, 1987

Mr. Barry M. Corey  
Corey & Farrell, P.C.  
Suite 600 Transamerica Building  
177 North Church Avenue  
Tucson, Arizona 85701

Re: I87-025 (R86-192)

Dear Mr. Corey:

Pursuant to A.R.S. § 15-253(B), this office has reviewed the opinions expressed in your December 9, 1986 letter to Alfred C. Strachan, Associate to the Superintendent of Amphitheater School District, and concurs with your conclusion that A.R.S. § 15-1105(C) provides that the school district must require proof of liability insurance coverage by persons using or leasing school property.

We revise your opinion to correct an erroneous assumption. In discussing Ariz. Atty. Gen. Op. I84-061, you state:

The Attorney General's Opinion was silent on that portion of the opinion under review which concluded that proof of liability insurance is a statutory prerequisite to the use or rental of the property of the school district. By its [sic] lack of comment, we infer that the Attorney General determined the statutory requirement of proof of liability insurance was properly addressed in the opinion under review.

In that opinion we concurred only with a conclusion of the opinion writer stating:

We concur with your conclusion that the  
District may allow Larson Memorial Library

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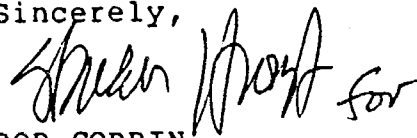
("the library") to use school property without compensation for periods of up to five years without first holding a vote on the matter by the school district electors if the district finds that the library meets the requirements of A.R.S. § 15-1105.

Ariz.Atty.Gen.Op. I84-061 (emphasis added). It cannot be assumed that we approved or adopted any statements in support of the conclusion that may have been in the opinion under review.

We also direct your attention to Ariz.Atty.Gen.Op. I84-136 in which we revised an opinion addressing a similar request asked by Mr. Strachan, involving leasing school property to a private business. In that opinion we stated:

A long term lease should also require that proof of liability insurance be demonstrated by the lessee. A.R.S. § 15-1105.C.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bob Corbin" with a stylized flourish at the end.

BOB CORBIN  
Attorney General

BC:JGF:TLM:gm

# COREY & FARRELL, P. C.

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December 9, 1986

Alfred C. Strachan  
Associate to the Superintendent  
Staff Relations  
AMPHITHEATER SCHOOL DISTRICT  
701 West Wetmore Road  
Tucson, Arizona 85705

EDUCATION OPINION

ISSUE NO LATER THAN

2-6-87

R86- 192

Martin  
12/10/86

Re: Insurance Requirements For The Use Of School Facilities By  
Individuals Or Groups Not Affiliated With Amphitheater  
School District

Dear Mr. Strachan:

You have asked for our opinion with respect to whether Amphitheater School District (the District) should require proof of liability insurance by those individuals or groups which are not a part of the District and which seek to use school facilities. It is our opinion that proof of liability insurance is mandatory in connection with such use.

A.R.S. §15-1105.C states that:

"[t]he governing board shall require proof of liability insurance for such use, lease or rental of school property."

The "use, lease or rental" of school property referred to in A.R.S. §15-1105.C includes, by its express terms, both the uncompensated use of school buildings, grounds, buses, equipment, and other school property, as well as the use of school property for which a rental fee is assessed. The legislature has not given the Governing Board any discretion in this matter. Proof of liability insurance is necessary as a condition for the use or lease of school property.

In Attorney General Opinion No. 184-061, the Attorney General was asked to review an opinion regarding the lease of school property to a memorial library. The opinion under review

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concluded, among other things, that there were two prerequisites to a valid lease agreement between the school district and the memorial library. The first was a Governing Board finding that the library is a school-related group whose activities promote the educational function of the school district, and the second prerequisite was that the Governing Board require proof of liability insurance. The opinion of the Attorney General concurred in the conclusion that allowed for compensation for the rental of the facility for up to five years without seeking voter approval so long as the library met the requirements of A.R.S. §15-1105. The Attorney General's Opinion was silent on that portion of the opinion under review which concluded that proof of liability insurance is a statutory prerequisite to the use or rental of the property of the school district. By its lack of comment, we infer that the Attorney General determined the statutory requirement of proof of liability insurance was properly addressed in the opinion under review.

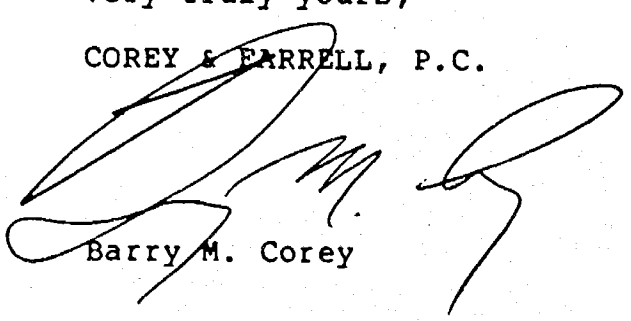
On the basis of the foregoing, it is our opinion that proof of liability insurance must be submitted by those seeking to use district property.

Pursuant to your request, a copy of this opinion is being forwarded to the Arizona Attorney General for review.

Thank you for permitting us to work with you in connection with this matter. Please feel free to contact us should you have any questions regarding this matter.

Very truly yours,

COREY & FARRELL, P.C.



Barry M. Corey

BMC/tld